

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

RON CHRISTOPHER FOOTMAN,

Plaintiff,

vs.

MARTIN R. BANKS,

Defendant.

Case No. 5:13-cv-02320-TLW

ORDER

Plaintiff Ron Christopher Footman, proceeding pro se and in forma pauperis, brought this action pursuant to 42 U.S.C. § 1983, alleging that the named defendants violated his right to due process during his state criminal proceedings. (Doc. #1). On September 17, 2014, the Court entered an Order dismissing the case without prejudice and without issuance and service of process. (Doc. #19). This matter is now before the Court for review of Plaintiff's motion for a refund of his filing fee, filed on October 20, 2014. (Doc. #24). For the reasons that follow, the Court denies Plaintiff's request.

The Prison Litigation Reform Act permits prisoners to file actions without prepaying court fees by proceeding in forma pauperis. See 28 U.S.C. § 1915(a), (b). However, prisoners proceeding in forma pauperis "shall be required to pay the full amount of a filing fee" as funds become available. 28 U.S.C. § 1915(b). These prisoners are required to pay an initial partial filing fee plus "monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid." Id.

When Plaintiff filed his motion for leave to proceed in forma pauperis, he signed a Financial Certificate, acknowledging that he was “required to pay the full filing fee” and consenting “to collection of the filing fee in accordance with 28 U.S.C. § 1915 until the filing fee is paid in full.” (Doc. #2-2). Nothing in § 1915 provides for a refund of a filing fee. See Partain v. Karr, No. 3:09-cv-03163, 2010 WL 2430967, at *1 (D.S.C. June 14, 2010); see also Williams v. U.S. District Court for the District of Newark, New Jersey, 455 Fed. App’x 142, 144 (3d Cir. 2011) (per curiam) (“[Appellant] filed a complaint and an application to proceed in forma pauperis; 28 U.S.C. § 1915 makes clear that filing fees shall be assessed, and makes no provision for a refund of such fees.”). Because the obligation to pay a filing fee attaches at the time an action is filed and remains despite the disposition of the case, the Court has no authority to return the payments made toward Plaintiff’s filing fee. See Johnson v. Rhodes, 220 F.3d 587, at *1 (5th Cir. 2000) (per curiam); Partain, 2010 WL 2430967, at *1.

Plaintiff’s motion for a refund of his filing fee is hereby **DENIED**. (Doc. #24).

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

December 3, 2014
Columbia, South Carolina